

# **EXHIBIT 23**

**From:** Dorris, Daniel V. <ddorris@kelloggghansen.com>  
**Sent:** Thursday, March 21, 2019 9:12 PM  
**To:** Coleman, James T.  
**Cc:** SERVICE-EXTERNAL-DMS-MDL; Hastert, Ethan A.; Michaels, Jessica A.  
**Subject:** Re: In re Dealer Management System Antitrust Litigation, MDL 2817, Case No. 18-CV-864 (N.D. Ill.) - Cox Automotive Revised Privilege Log and Production

**\*\*EXTERNAL SENDER\*\***

Counsel, as indicated in Cox Automotive's opposition to CDK's motion to compel, please find the number of current recipients for the email lists on Cox Automotive's privilege log. Where the number of current members is zero, the list is no longer in use. The email address "APDallas@coxautoinc.com" is a shared mailbox, not an email list sent to multiple email addresses. Best, Dan

Email Address	General Purpose	Number of current members
<a href="mailto:Accounting-DraftContracts@dealer.com">Accounting-DraftContracts@dealer.com</a>	Accounting review of draft contracts	0
<a href="mailto:APDallas@coxautoinc.com">APDallas@coxautoinc.com</a>	Invoice processing	N/A
<a href="mailto:AT-PMOLeadership@autotrader.com">AT-PMOLeadership@autotrader.com</a>	Autotrader project management officer leadership	0
<a href="mailto:billing@xtime.com">billing@xtime.com</a>	Xtime billing issues	28
<a href="mailto:cancelcontract@xtime.com">cancelcontract@xtime.com</a>	Xtime contract cancellations	43
<a href="mailto:ceostaff@xtime.com">ceostaff@xtime.com</a>	Xtime executive leadership	0
<a href="mailto:dealsdesk@dealer.com">dealsdesk@dealer.com</a>	Dealer.com agreements	0
<a href="mailto:DMS-BDCSS@dealertrack.com">DMS-BDCSS@dealertrack.com</a>	Dealertrack DMS business development center sales specialist	0
<a href="mailto:dmslegal@coxautoinc.com">dmslegal@coxautoinc.com</a>	Dealertrack DMS legal department	0
<a href="mailto:DMS-RSMail@dealertrack.com">DMS-RSMail@dealertrack.com</a>	Dealertrack DMS regional sales managers	0
<a href="mailto:DMS-SAD@dealertrack.com">DMS-SAD@dealertrack.com</a>	Dealertrack DMS strategic account directors	0
<a href="mailto:dsa@xtime.com">dsa@xtime.com</a>	Xtime directors of strategic accounts	0
<a href="mailto:legal@vauto.com">legal@vauto.com</a>	vAuto legal department	1
<a href="mailto:legal@xtime.com">legal@xtime.com</a>	Xtime legal department	0
<a href="mailto:MANCoxAutomotiveLeadershipTeam@Manheim.com">MANCoxAutomotiveLeadershipTeam@Manheim.com</a>	Manheim and Cox Automotive executive leadership	0
<a href="mailto:ncssaccountmanager@Manheim.com">ncssaccountmanager@Manheim.com</a>	National client sales support account managers	9
<a href="mailto:NCSSGroup@Manheim.com">NCSSGroup@Manheim.com</a>	National client sales support group	522
<a href="mailto:ProductLeadershipTeam@vinsolutions.com">ProductLeadershipTeam@vinsolutions.com</a>	VinSolutions product leadership team	0
<a href="mailto:retailsolutionsleadershipteam@coxautoinc.com">retailsolutionsleadershipteam@coxautoinc.com</a>	Retail solutions group leadership team	19
<a href="mailto:Sales-DMS-Leadership@dealertrack.com">Sales-DMS-Leadership@dealertrack.com</a>	Dealertrack DMS sales leadership team	0
<a href="mailto:salesmngt@xtime.com">salesmngt@xtime.com</a>	Xtime sales management	0
<a href="mailto:salesops@xtime.com">salesops@xtime.com</a>	Xtime sales operations	31
<a href="mailto:Sales-SE-DMS@dealertrack.com">Sales-SE-DMS@dealertrack.com</a>	Dealertrack DMS sales engineers	3

**From:** "Dorris, Daniel V." <ddorris@kelloggghansen.com>  
**Date:** Thursday, February 28, 2019 at 3:25 PM  
**To:** "'Coleman, James T.'" <JColeman@mayerbrown.com>  
**Cc:** SERVICE-EXTERNAL-DMS-MDL <SERVICE-EXTERNAL-DMS-MDL@lists.kelloggghansen.com>, "Hastert, Ethan A." <EHastert@mayerbrown.com>, "Michaels, Jessica A." <JMichaels@mayerbrown.com>  
**Subject:** RE: In re Dealer Management System Antitrust Litigation, MDL 2817, Case No. 18-CV-864 (N.D. Ill.) - Cox Automotive Revised Privilege Log and Production

Counsel,

I write on behalf of Cox Automotive, Inc. to follow up on our February 21, 2019 meet-and-confer. Please see our responses to the eight issues raised in CDK's February 20, 2019 email and Cox Automotive's revised privilege log.

1. As we confirmed during the meet-and-confer, Cox Legal Department refers either to an attorney or a staff member working on behalf of an attorney.
2. We have included custodial metadata in the revised privilege log.
3. As we confirmed during the February 21, 2019 meet-and-confirm, where the privilege log refers to "impressions" of counsel, those "impressions" involve either the request for or provision of legal advice on the topics stated in the privilege log.
4. As we explained in our January 18, 2019 letter and on the February 21, 2019 meet-and-confer, for 9 of the 10 entries with a third party, the third-party was Leigh Parrish at Joele Frank, a communications firm engaged by Cox Automotive. With respect to the remaining entry with a third-party, P2255 was an email attached to P2221. As indicated in the privilege log, P2221 (including its email attachments) reflects the request for legal advice regarding customer data conversion problems from CDK to Dealertrack.
5. The email lists below that appear on Cox Automotive's privilege log have the specified general purposes. Cox Automotive will not provide the number of current members of these email lists because that information is irrelevant to the privileged nature of the documents when sent to these lists. Cox Automotive has no reason to believe that these lists included any individual that would have waived the privileged nature of any document on Cox Automotive's privilege log.

Email Address	General Purpose
<a href="mailto:Accounting-DraftContracts@dealer.com">Accounting-DraftContracts@dealer.com</a>	Accounting review of draft contracts
<a href="mailto:APDallas@coxautoinc.com">APDallas@coxautoinc.com</a>	Invoice processing
<a href="mailto:AT-PMOLeadership@autotrader.com">AT-PMOLeadership@autotrader.com</a>	Autotrader project management officer leadership
<a href="mailto:billing@xtime.com">billing@xtime.com</a>	Xtime billing issues
<a href="mailto:cancelcontract@xtime.com">cancelcontract@xtime.com</a>	Xtime contract cancellations
<a href="mailto:ceostaff@xtime.com">ceostaff@xtime.com</a>	Xtime executive leadership
<a href="mailto:dealsdesk@dealer.com">dealsdesk@dealer.com</a>	Dealer.com agreements
<a href="mailto:DMS-BDCSS@dealertrack.com">DMS-BDCSS@dealertrack.com</a>	Dealertrack DMS business development center sales specialist
<a href="mailto:dmslegal@coxautoinc.com">dmslegal@coxautoinc.com</a>	Dealertrack DMS legal department
<a href="mailto:DMS-RSMail@dealertrack.com">DMS-RSMail@dealertrack.com</a>	Dealertrack DMS regional sales managers
<a href="mailto:DMS-SAD@dealertrack.com">DMS-SAD@dealertrack.com</a>	Dealertrack DMS strategic account directors

<a href="mailto:dsa@xtime.com">dsa@xtime.com</a>	Xtime directors of strategic accounts
<a href="mailto:legal@vauto.com">legal@vauto.com</a>	vAuto legal department
<a href="mailto:legal@xtime.com">legal@xtime.com</a>	Xtime legal department
<a href="mailto:MANCoxAutomotiveLeadershipTeam@Manheim.com">MANCoxAutomotiveLeadershipTeam@Manheim.com</a>	Manheim and Cox Automotive executive leadership
<a href="mailto:ncssaccountmanager@Manheim.com">ncssaccountmanager@Manheim.com</a>	National client sales support account managers
<a href="mailto:NCSSGroup@Manheim.com">NCSSGroup@Manheim.com</a>	National client sales support group
<a href="mailto:ProductLeadershipTeam@vinsolutions.com">ProductLeadershipTeam@vinsolutions.com</a>	VinSolutions product leadership team
<a href="mailto:retailsolutionsleadershipteam@coxautoinc.com">retailsolutionsleadershipteam@coxautoinc.com</a>	Retail solutions group leadership team
<a href="mailto:Sales-DMS-Leadership@dealertrack.com">Sales-DMS-Leadership@dealertrack.com</a>	Dealertrack DMS sales leadership team
<a href="mailto:salesmngt@xtime.com">salesmngt@xtime.com</a>	Xtime sales management
<a href="mailto:salesops@xtime.com">salesops@xtime.com</a>	Xtime sales operations
<a href="mailto:Sales-SE-DMS@dealertrack.com">Sales-SE-DMS@dealertrack.com</a>	Dealertrack DMS sales engineers

6. As we explained on our February 21, 2019 meet-and-confer, for document families, Cox Automotive has included an entry on the privilege log for the parent document and has listed any attachments to that documents after the parent entry with the notation "See COX\_MDL\_PXXXX" to reference the parent document. This is consistent with the ESI protocol, which requires only that the parent document be included on the privilege log. Indeed, Cox Automotive has provided *more* information than is required by the ESI protocol. Moreover, where available, Cox Automotive has already included sender and recipient information for attachment documents.
7. Defendants' disagreements with the statements in the privilege descriptions are irrelevant to whether those documents are privileged.
8. As we explained on our February 21, 2019 meet-and-confer, the entries asserting a common interest privilege are between parties sharing a common interest with respect to antitrust litigation against CDK and Reynolds. On the call you asked us for additional information regarding P0586 and P4144 – two entries for which Cox Automotive has not asserted the common interest privilege. These requests are untimely as the schedule that the parties agreed to required that meet-and-confers be completed by February 20, 2019. Nonetheless, we can provide the following information. Upon further review, the relevant legal personnel for P0586 also include Peter Cassat and Jay Seirmarco, and the relevant legal personnel for P4144 also includes Peter Cassat.

Best,  
Dan

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**From:** Coleman, James T. [mailto:JColeman@mayerbrown.com]  
**Sent:** Wednesday, February 20, 2019 11:42 AM  
**To:** Dorris, Daniel V. <ddorris@kellogghansen.com>  
**Cc:** SERVICE-EXTERNAL-DMS-MDL <SERVICE-EXTERNAL-DMS-MDL@lists.kellogghansen.com>; Hastert, Ethan A. <EHastert@mayerbrown.com>; Michaels, Jessica A. <JMichaels@mayerbrown.com>  
**Subject:** RE: In re Dealer Management System Antitrust Litigation, MDL 2817, Case No. 18-CV-864 (N.D. Ill.) - Cox Automotive Revised Privilege Log and Production

Daniel,

Thank you for your revised privilege log. We understand that the Stipulation entered by the Court on January 15, 2019 requires that meet and confers on various privilege log issues occur by February 20, 2019. However, due to scheduling conflicts on our end, we are unable to convene today. Defendants propose a global meet and confer on all outstanding

privilege log issues tomorrow. We are available between 11 am and 3 pm Central. Please let us know if that works for Plaintiffs and, if so, what time you'd like to start.

We would like to discuss on a meet and confer our continuing concerns with the log, with a focus on the following issues:

1. The revised privilege log identifies "Cox Legal Department" as the relevant legal personnel for many entries. We would like Cox to confirm that "Cox Legal Department" refers to either (1) an attorney or (2) a paralegal acting on behalf of an attorney.
2. The revised privilege log does not identify document custodians. We would like Cox to provide custodian information for each entry.
3. The revised privilege log contains entries referring to the "impressions" of counsel. A reference to the "impressions" of counsel does not assert that the communication involves the provision of legal advice.
4. The revised privilege log contains third-party senders and recipients. We would like to discuss the reasons for Cox's view that those third parties do not break privilege.
5. The revised privilege log contains distribution lists. We would like Cox to comply with the parties' global agreement to identify the current purpose of each list and the current number of people on each list.
6. The revised privilege log contains many entries with descriptions beginning "See Log ID" with a reference to a prior entry. We would like Cox to address whether the "See" is intended to duplicate the entire prior entry or just the document description.
7. The revised privilege log contains references to CDK and Reynolds' purported "misrepresentations." We find these references gratuitous and objectionable.
8. The revised privilege log contains assertions of common interest. Where asserted in the log, we would like Cox to explain the basis for common interest.

We look forward to discussing these and other issues during a meet and confer.

Regards,

James

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**James T. Coleman**  
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Mayer Brown LLP  
T. +1 312-701-8276  
E. [jcoleman@mayerbrown.com](mailto:jcoleman@mayerbrown.com)

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**From:** Briggs, Kimberly A. <[kbriggs@kelloggghansen.com](mailto:kbriggs@kelloggghansen.com)>  
**Sent:** Friday, February 08, 2019 11:27 PM  
**To:** SERVICE-EXTERNAL-DMS-MDL <[SERVICE-EXTERNAL-DMS-MDL@lists.kelloggghansen.com](mailto:SERVICE-EXTERNAL-DMS-MDL@lists.kelloggghansen.com)>  
**Subject:** In re Dealer Management System Antitrust Litigation, MDL 2817, Case No. 18-CV-864 (N.D. Ill.) - Cox Automotive Revised Privilege Log and Production

**\*\*EXTERNAL SENDER\*\***

Counsel -

Please see attached correspondence on behalf of Daniel Dorris. Below is a link to download these materials via FTP. Encryption passwords will follow separately.

Kind regards,

Kimberly A. Briggs  
KELLOGG, HANSEN, TODD, FIGEL & FREDERICK P.L.L.C.  
1615 M Street, N.W. | Suite 400 | Washington, DC 20036  
phone: 202-367-7822, fax: 202-326-7999

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